



March 25, 2016

Pamela G. Monroe, Administrator  
New Hampshire Site Evaluation Committee  
21 South Fruit Street, Suite 10  
Concord, NH 03301

**Re: NH Site Evaluation Committee Docket No. 2015-02**

Dear Ms. Monroe:

Antrim Wind Energy, LLC's ('AWE' or 'Applicant') response to the March 11, 2016 motion filed by the Wind Action Group, Lorraine Carey Block, and Richard Block ('Intervenors') follows two basic lines of argument. First, it disputes any grounds for reconsidering the Site Evaluation Committee's ('Committee') completeness determination by relying on language in the Committee's March 1, 2016 order. *Order on Pending Motions to Suspend Proceedings or Postpone Public Hearings, Docket No. 2015-06, (March 1, 2016)* Second, it complains the Intervenors raise issues that are either incorrectly described or premature. AWE's objections clearly misrepresent the content of the motion, wrongly apply the Committee's prior ruling, and demonstrate an unfamiliarity, or at worse, a gross disregard for the revised SEC rules.

The statutory purpose of the supplemental information is to ensure the Application is brought into compliance with the revised rules. AWE's reliance on the Committee's March 1, 2016 ruling is misplaced as the circumstances discussed in that ruling bear little similarity to the motion filed by the Intervenors. In Docket 2015-06, the pleadings pertained to requests for "additional or deferred public hearings" to allow more time for the public to evaluate the supplemental information filed in that matter. *March 1 2016 Order p.3* According to our knowledge and belief, none of the six (6) pleadings<sup>1</sup> enumerated specific areas where the application and supplemental information were non-confirming with the revised rules.

In Docket 2015-02, the Intervenors are not asking for additional time to assess the quality of AWE's supplemental information. We have already closely examined the Application and found at least fifteen unambiguous instances where AWE's Application does not adhere to the rules. *Table 1*

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<sup>1</sup> Contested Motion for Due Process Upon Submission of Additional Information filed by the Society for the Protection of New Hampshire Forests (Forest Society); Un-Assented To Motion for Additional or Deferred Public Hearings filed by Conservation Law Foundation (CLF); Response of Counsel for the Public to Motion of Conservation Law Foundation for Additional or Deferred Public Hearings and Contested Motion for Due Process Upon Submission of Additional Information of The Society for the Protection of New Hampshire Forests; Appalachian Mountain Club's Joinder in the Motions for Additional or Deferred Public Hearings Filed by the Society for the Protection of New Hampshire Forests and the Conservation Law Foundation; Assent of the Towns of Bristol, Easton, Franconia, Northumberland, Sugar Hill, and Whitefield to Motions of CLF and SPNHF; and Assent of the Towns of New Hampton, Woodstock, Bridgewater & Littleton to Motions of CLF and SPNHF.

Table 1

Topic	Rule	Description of non-compliance
Decommissioning	NH Site 301.08(a)(7) NH Site 301.08(a)(8)f	The decommissioning plan and cost information addresses removal of subsurface infrastructure down to 24 inches.
Visual Simulation	Site 301.05(8)(a)	Original photosimulations constructed on base photographs taken on very hazy days; Foreground obstructions and distractions appear in the base photographs;
	NH Site 301.05(8)(d)	Information describing base photograph incorrect;
	NH Site 301.05(8)(e)3	No blades situated on towers in 12 o'clock position;
	NH Site 301.05(8)(e)1	Fog or haze effect is apparent.
Noise	NH Site 301.08(a)(1) NH Site 301.08(a)(2)	Background noise study not conducted in compliance with required standards;
	NH Site 301.18(b)(1) NH Site 301.18(b)(4) NH Site 301.18(b)(5)	Property lines excluded from the project layout. Report omits location of significant local sounds and vibrations and the distance between all sound measurement points and local sound sources;
	NH Site 301.18 (c)(3)	Five properties omitted from model. Separate noise model was not run for the Substation <sup>2</sup> ;
	NH Site 301.18 (c)(4)	Other corrections for model algorithm error not disclosed.
Shadow Flicker	NH Rule 301.08(a)(2)	Flicker model only to 1-mile; Not all properties included; At least 5 properties close to the project omitted;
	NH Site 102.11	Definition of "Astronomical Maximum" not compliant with the definition in Rule 102.11.

The Committee must find that an application "contains sufficient information to carry out the purposes of this chapter." *RSA 162-H:7 III* The Intervenor's are not disputing that the Application was sufficiently complete at the time when the Committee issued its December 1, 2016 order. However, it is plainly evident that AWE's supplemental information fails to address specific technical requirements articulated in the rules. The missing information raises questions as to whether the Committee's independent determination of Completeness is still valid.

AWE characterizes the issues raised in the Intervenor's motion as "alleged errors" based on the Intervenor's own "interpretation" of the revised rules. It insists the complaints are premature and more

<sup>2</sup> While AWE's objection notes that information about the substation is included in the February 19, 2016 noise report, it is evident that AWE did not include the results of a separate predictive noise model for the substation.

appropriately addressed during the adjudicative proceeding. This is plainly wrong.

For example, NH Site 301.08(a)(8)f mandates that the decommissioning plan submitted with the Application “shall include” the excavation and removal from the site all underground infrastructure down to 4 feet. AWE’s decommissioning plan excavates *and buries on-site the first 24-inches*<sup>3</sup> of underground infrastructure. The language of the rule is clear. There is no way a reasonable person could equate 4-feet to 24-inches or the removal of debris off-site to burying the debris on-site. AWE’s claim that it “believes it has provided sufficient information to comply with the new rules<sup>4</sup>” is self-serving and irrelevant. In a second example, the rules governing the preconstruction background noise study and predictive noise modeling clearly articulate the data to be included in the noise report and the professional standards to be followed, yet AWE, only partially complies. These are just two examples of the many we identified where the language in the rules is clear and AWE does not comply.

The Intervenor’s motion proffered several options for addressing the compliance concerns including the possibility of the Committee reconsidering its completeness decision. If the Committee determines after reviewing our motion that the Application is complete in spite of the non-conformance issues, such a finding would not negate the fact that essential material necessary for a full and complete review has been omitted from AWE’s Application. This burden should fall to AWE and not on the parties to discover through data requests and cross-examination.

We have no intention of litigating the Committee’s review of the application for acceptance purposes. However, we will rigorously oppose attempts by the Applicant to litigate the revised rules where the language is crystal clear. AWE’s attempt to dismiss the Intervenor’s motion in its entirety as premature or open to interpretation is without merit.

Thank you for the opportunity to be heard on this important matter. If you have any questions regarding this letter or our prior motion, please contact Lisa Linowes at (603) 838-6588 or by email at [llinowes@windaction.org](mailto:llinowes@windaction.org)

Respectfully submitted,



Lisa Linowes

cc: Service List for Docket No. 2015-02  
Loranne Carey Block  
Richard Block

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<sup>3</sup> Since the Intervenor’s March 11 motion was filed, we learned that AWE’s decommissioning proposes to dig a trench and bury the first 24-inches of underground infrastructure on-site. The rules require the excavated debris be transported off-site.

<sup>4</sup>Applicant’s Objection To Motion Requiring Portions Of The Antrim Wind LLC Application Be Brought Into Compliance p.5 (March 18, 2016)